IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

ESTATE DUTY REFERENCE No 10 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL
and
Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

CONTROLLER OF ESTATE DUTY

Versus

SUMATILAL MAGANLAL

Appearance:
MR AKIL KURESHI instructed by Mr. MR BHATT
for Petitioner
NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE J.M.PANCHAL
and
MR.JUSTICE M.S.SHAH

Date of decision: 22/02/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In this Reference, at the instance of the Revenue, the following questions are referred for our opinion :

"1. Whether, on the facts and in the circumstances of the case, the Tribunal was justified in upholding the direction of Controller of Estate Duty (Appeals) to the effect that the valuatiion of shares should be made in conformity with rule 1D of the Wealth-tax Rules ?

2. Whether, on the facts and in the circumstances of the case, the Tribunal was justified in upholding the decision of the CED(A) directing the A.O.E.D. to value the shares of M/s. Pannalal Silk Mills at the rate of Rs. 1,171/- per share as against the rate of Rs.2,200/per share ?"

2. We have heard learned counsel Mr. Akil Kureshi instructed by Mr. M.R.Bhatt for the Revenue. None appears for the respondent, though served.

Re : Question No.1.

3. As far as Question no.1 is concerned, we have already held in our decision rendered today in Estate Duty Reference No. 7 of 1985 that valuation of unquoted shares should be made in conformity with Rule 1D of the Wealth-tax Rules as interpreted by the Supreme Court in BHARAT HARI SINGHANIA AND OTHERS v. COMMISSIONER OF WEALTH-TAX AND OTHERS, (1994) 207 ITR 1. We answer the Question accordingly.

Re: Question no.2

4. As far as Question no.2 is concerned, some facts are required to be stated : Deceased Sumatilal expired on 2.3.1967. Prior to his death, the deceased was holding shares of Panalal Silk Mills Ltd., the shares of which were not quoted at any stock exchange. The Assistant Controller of Estate Duty valued the shares of Panalal Silk Mills at the rate of Rs. 2,200/- per share as against Rs. 1,552/- as per the return filed by the accountable person. In appeal filed by the accountable person, the Controller of Estate Duty held that the value of shares was required to be worked out in terms of Rule 1D of the Wealth-tax Rules after making adjustments towards advance tax and provision for tax. Accordingly,

the value of the share was worked out by the Controller of Estate Duty at the Rate of Rs. 1741/-. The Tribunal upheld the finding of the Controller on the aforesaid issue. Hence, this Reference at the instance of the Revenue.

5. As already stated above, the controversy is now concluded by the decision of the Apex Court in BHARAT HARI SINGHANIA AND OTHERS (Supra). While discussing Question no.5 in the said case, the Apex Court has laid down the relevant principles on Pages 31 & 32 of the Report. The principles are also explained by a concrete illustration. Since the principles enunciated by the Apex Court and the illustration given in the said decision are self-explanatory, we need not add anything further apart from observing that the Tribunal shall decide the matter in accordance with the principles laid down by the Apex Court in BHARAT HARI SINGHANIA v. CWT (1994) 207 ITR 1 (relevant pages 31 & 32).

6. The Reference stands disposed of accordingly with no order as to costs.

(J.M.Panchal,J.)

(M.S.Shah, J.)

(patel)